

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WRIGHT

TENTH JUDICIAL DISTRICT

Capital One Bank (USA), N.A.,

Plaintiff,

PLAINTIFF'S AFFIDAVIT

vs.

Don T Mashak,

Defendant.

STATE OF Virginia)

) ss.

COUNTY OF Chesterfield)

Barbara S. Edwards, being first duly sworn, deposes and states as follows:

1. Affiant is an authorized agent of the Plaintiff above-named, and is familiar with Plaintiff's business records, and has full access to the computer-generated business records of Plaintiff.
2. Affiant is knowledgeable in the business records retention practices of the Plaintiff. Plaintiff's billing records are maintained with an extremely high degree of accuracy through a centralized computer database that calculates the amounts owed for each account. In order to maintain such a system, the Plaintiff has established policies and procedures to ensure the accuracy of its accounts.
3. The Defendant is the holder of a credit account issued by Plaintiff with the account number ending with ****9788. Defendant was issued credit on the account and was sent a credit agreement. The application and/or the credit agreement contained all of the disclosure statements required under State and Federal law. Pursuant to the terms of the credit agreement, Defendant obtained extensions of credit by using this account for purchases of goods and services.
4. That at no time prior to the commencement of this action did Defendant communicate to Plaintiff, in a timely manner, of any unresolved disputes which appeared on the statements that were sent to Defendant's address indicating the amount due on this account. Attached hereto is a true and correct copy of statements as Exhibit "A". Attached hereto is a true and correct copy of the application as Exhibit "B". Attached hereto is a true and correct copy of the terms and conditions as Exhibit "C".

5. Contained within the billing statements were all required notifications of the applicable interest rate.

The billing statements were kept in the ordinary course of business and are an accurate accounting of the Defendant's account.

6. Pursuant to Plaintiff's established business practices, Plaintiff reimbursed all of the merchants who accepted the Defendant's credit as reflected on the billing statements.

7. Defendant has failed to repay the debt to Plaintiff pursuant to the terms of their credit agreement, and is accordingly indebted to Plaintiff in the amount of \$24,524.78 to which Plaintiff is entitled to under the account agreement.

8. That at no time has Plaintiff agreed to a modification of the parties' credit agreement.

9. Defendant has made no claim of being an active member in the military services of the United States or any state thereof, and to my personal knowledge; the Defendant is not an active member in the military service. Nor has Defendant requested reduction of the interest rate on the account to 6% pursuant to the Soldiers and Sailors Civil Relief Act.

10. Your affiant makes this affidavit in support of Plaintiff's motion for summary judgment.

FURTHER YOUR AFFIANT SAYETH NOT.

Capital One Bank (USA), N.A.

Barbara S. Edwards 6-25-13

Name: Barbara S. Edwards

Title: Litigation Support Representative

Subscribed and sworn before me
this 25 day of JUNE, 2013.

Diane P. Trittipoe
Notary Public

Chesterfield County



FORM 11.1 CONFIDENTIAL INFORMATION FORM

(Gen. R. Prac. 11.02)

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WRIGHT

TENTH JUDICIAL DISTRICT

Case Type: Contract

Court File:

Capital One Bank (USA), N.A.

Plaintiff

and

Don T Mashak

Defendant

CONFIDENTIAL INFORMATION
(Provided in Accordance With Rule 11 of
the Minnesota General Rules of Practice)

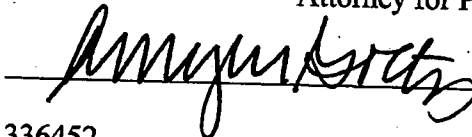
The information on this form is confidential and shall not be placed in a publicly accessible portion of a file.

	NAME	SOCIAL SECURITY NUMBER EMPLOYER IDENTIFICATION NUMBER AND FINANCIAL ACCOUNT NUMBERS
Plaintiff	1. <u>Capital One Bank (USA), N.A.</u>	4802132421609788
	2. _____	_____
	3. _____	_____
Defendant	Don T Mashak	***-**-0514
Other Party (e.g., minor children)	1. _____	_____
	2. _____	_____

Information supplied by:

Attorney for Plaintiff

Signed:



Attorney Reg. #:

336452

Firm:

Gurstel Chargo PA

Address:

6681 Country Club Drive

Golden Valley, MN 55427

Date:

July 31, 2013

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WRIGHT

TENTH JUDICIAL DISTRICT

Case Type: _____

Court File: _____

Capital One Bank (USA), N.A.

Plaintiff

and

**SEALED FINANCIAL
SOURCE DOCUMENTS**

Don T Mashak

Defendant

THE LISTING OF SEALED FINANCIAL SOURCE DOCUMENTS IS ACCESSIBLE TO THE PUBLIC BUT THE SOURCE DOCUMENTS SHALL NOT BE ACCESSIBLE TO THE PUBLIC EXCEPT AS AUTHORIZED BY COURT RULE OR ORDER

- ☐ Income tax records
Periods covered:
- ☐ Bank statements
Periods covered:
- ☐ Pay stubs
Periods covered:
- ☒ Credit card statements
Periods covered:
- ☐ Other:

Information supplied by: Plaintiff

Signed: _____

Attorney Reg. #: 336452

Firm: GURSTEL CHARGO PA

Address: 6681 Country Club Drive, Golden Valley, MN 55427

Date: July 31, 2013

State of Minnesota

County
WRIGHT

District Court

Judicial District:	<u>TENTH</u>
Court File Number:	_____
Case Type:	<u>3B</u>

Capital One Bank (USA), N.A.

Plaintiff

vs

Don T Mashak

Defendant

**Civil Cover Sheet
(Non-Family Case Type)
Minn.R. Gen. Prac. 104**

Date Case Filed: _____

This civil cover sheet must be filed by the initial filing lawyer or party, if unrepresented by legal counsel, unless the court orders all parties or their legal counsel to complete this form. Once the initial civil cover sheet is filed, opposing lawyers or unrepresented parties who have not already been ordered to complete this form may submit their own cover sheet within ten days after being served with the initial cover sheet. See Rule 104 of the General Rules of Practice for the District Courts.

If information is not known to the filing party at the time of filing, it shall be provided to the Court Administrator in writing by the filing party within seven (7) days of learning the information. Any party impleading additional parties shall provide the same information to the Court Administrator. The Court Administrator shall, upon receipt of the completed certificate, notify all parties or their lawyers, if represented by counsel, of the date of filing the action and the file number assigned.

ATTORNEY FOR PLAINTIFF

Amy M. Goltz

Attorney Name

6681 Country Club Drive

Postal Address

ATTORNEY FOR DEFENDANT

Attorney Name

Postal Address

Golden Valley, MN 55427
 City State Zip Code

763/267-6844
 Telephone Number

a.goltz@gurstel.com
 E-mail address

336452
 Minnesota Attorney License No.

PLAINTIFF, Self-represented

 Name

 Postal Address

 City State Zip Cod

()
 Telephone Number

 E-mail address

 City State Zip Code

()
 Telephone Number

 E-mail address

 Minnesota Attorney License No.

DEFENDANT, Self-represented

Don T Mashak
 Name

Rr 1 Box 231
 Postal Address

Albertville MN 55301
 City State Zip Code

()
 Telephone Number

 E-mail address

(Attach additional sheet for additional attorneys / parties)

Note: If either Plaintiff or Defendant gets an attorney, the attorney's name, address, telephone number and attorney ID number must be given in writing to the Court Administrator immediately.

1. Provide a concise statement of the case including facts and legal basis:

This is a debt collection matter whereby Plaintiff alleges it is entitled to \$24,614.78.

2. Date Complaint was served: January 11, 2013

3. For Expedited Litigation Track (ELT) Pilot Courts only:

a. ☐ the parties jointly and voluntarily agree that this case shall be governed by the

Special Rules for ELT Pilot. Date of agreement: _____

b. ☒ The court is requested to consider excluding this case from ELT for the following

reasons: Plaintiff would like to proceed with immediately filing a motion for summary judgment.

Note: ELT is mandatory in certain cases, and where mandatory, exclusion may also be sought by timely motion under the Special Rules for ELT Pilot.

c. Anticipated number of trial witnesses: 2

d. Amount of medical expenses to date: N/A

e. Amount of lost wages to date: N/A

f. Identify any known subrogation interests: N/A

4. Estimated discovery completion within 3 months from the date of this form.

5. Disclosure / discovery of electronically stored information discussed with other party?

☐ No ☒ Yes, date of discussion:

If Yes, list agreements, plans, and disputes: Discovery served June 4, 2013.

6. Proposed trial start date: July 30, 2014

7. Estimated trial time: 0 days 4 hours (estimates less than a day must be stated in hours).

8. Jury trial is:

☒ waived by consent of Plaintiff pursuant to Minn. R. Civ. P. 38.02.
(specify party)

☐ requested by _____ (NOTE: Applicable fee must be enclosed)
(specify party)

9. Physical/mental/blood examination pursuant to Minn. R. Civ. P. 35 is requested:

☐ Yes ☒ No

10. Identify any party or witness who will require interpreter services, and describe the services needed (specifying language, and if known, particular dialect: _____

11. Issues in dispute: _____

12. Case Type / Category: 3B (NOTE: select case type from Form 23, Subject Matter Index for Civil Cases, appended to the Minnesota Rules of Civil Procedure).

13. Recommended Alternative Dispute Resolution (ADR) mechanism: Plaintiff
(See list of ADR processes set forth in Minn. Gen. R. Prac. 114.02(a))


Recommended ADR provider (known as a "neutral"): _____

Recommended ADR completion date: _____

If applicable, reasons why ADR not appropriate for this case: Plaintiff requests ADR be waived in this matter. Plaintiff intends to bring a dispositive motion shortly. By

signing below, the attorney or party submitting this form certifies that the above information is true and correct.

Submitted by: _____


GURSTEL CHARGO PA
Amy M. Goltz (#336452)
Attorneys for Plaintiff
6681 Country Club Drive
Golden Valley, MN 55427
Telephone: (877) 344-4002
Fax: (763) 267-6777

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WRIGHT

TENTH JUDICIAL DISTRICT

Capital One Bank (USA), N.A.,

Court File:

Plaintiff,

vs.

Don T Mashak,

**AFFIDAVIT OF SERVICE
BY MAIL**

Defendant.

STATE OF MINNESOTA)

) ss.

COUNTY OF HENNEPIN)

Alina Parzyck, of the City of Golden Valley, County of Hennepin, in the State of Minnesota, being duly sworn, says that on the 31 day of July, 2013, she served by U.S. mail, postage prepaid, the following documents: :

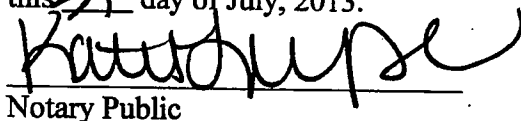
1. Summons and Complaint;
2. Affidavit of Service;
3. Notice of Motion and Motion for Summary Judgment;
4. Memorandum of Law in Support of Plaintiff's Request for Summary Judgment;
5. Plaintiff's Affidavit and exhibits;
6. Affidavit of Amy M. Goltz;
7. Civil Cover Sheet.

Don T Mashak
RR 1 BOX 231
ALBERTVILLE MN 55301

Wright County District Court
Wright County Courthouse
10 2nd St NW, Room 201
Buffalo, MN 55313


Alina Parzyck

Subscribed and sworn to before me
this 31 day of July, 2013.


Notary Public

